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IN THE UNITED STATES PATENT AND TRADEM.

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Registration of

CERTIFICATE OF MAILING

Registrant: COMPGEEKS.COM  
Registration No.: 2,499,396  
Mark: COMPGEEKS.COM

75659718

I hereby certify that the foregoing document is being deposited this 23<sup>RD</sup> day of October, 2006 with the United States Postal Service as First Class Mail in an envelope addressed to, Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451.

  
Name: Elizabeth M. Gray

PETITION FOR CANCELLATION

Box TTAB FEE  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Sir:

Computer Geeks, Inc., a corporation of the State of California, having a place of business at 2895 190th Street, Redondo Beach, CA 90278-5402 ("Petitioner"), believes that it will be damaged by the continued registration of the mark of Registration No. 2,499,396 and hereby petitions its cancellation.

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10-26-2006

U.S. Patent & TMO/TM Mail Rcpt Dt. #32

As grounds for the cancellation, it is alleged that:

1. Petitioner filed an application with the U.S. Patent and Trademark Office, Serial No. 78/595,272 to register COMPUTER GEEKS for various computer goods and services, based on use at least as early as 1995.
2. The U.S. Patent and Trademark Office preliminarily rejected Petitioner's application by advising of Registrant's two pending applications for COMPUTER GEEKS, Serial No. 78/380,877 and Serial No. 78/258,431.
3. Petitioner hereto opposed the aforesaid Registrant's applications in two Oppositions, now consolidated as 91167886 which is now pending ("Consolidated Opposition").
4. Registrant is the owner of Reg. No. 2,499,396 for the mark COMPGEEKS.COM for: Computerized on-line ordering services in the field of computer software, computer hardware, computer peripherals and accessories in Class 35 and Computer services, namely, providing search engines for obtaining data on global computer network in Class 42.
5. Registrant of Reg. No. 2,499,396, who is also the Applicant in Serial No. 78/380,877 and Serial No. 78/258,431, answered each Notice of Opposition (now forming the Consolidated Opposition). It made Affirmative Defenses that Applicant (Registrant herein) "already owns substantially similar registered marks for substantially similar goods and/or services that the pending application causes no added injury to Opposer." In the Consolidated Opposition, testimony in a F.R.Civ.P. 30(b)(6) deposition of Applicant (Registrant herein) identified the subject COMPGEEKS.COM registration as one of the registrations Applicant asserted in its aforementioned Affirmative Defenses.

6. Insofar as the subject Reg. No. 2,499,396 is asserted by the Registrant (who is also the owner of Applications Ser. No. 78/380,877 and Ser. No. 78/258,431) as a defense to the pending Consolidated Opposition, then Petitioner believes it will be damaged by the continued registration of the mark of 2,499,396.

7. Petitioner believes it adopted and has used the mark COMPUTER GEEKS for various computer goods and services continuously since prior to Registrant's alleged date of first use of its mark.

WHEREFORE, Petitioner respectfully requests that this Cancellation be sustained and that Registration No. 2,499,396 be cancelled.

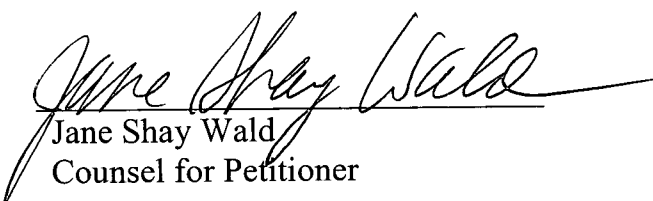
This Notice of Opposition is submitted in triplicate and the Commissioner is hereby authorized to charge the filing fees to cancel the registration in both classes 35 and 42 to this firm's Deposit Account No. 09-0946 for which purpose an additional copy of this page is attached.

Respectfully submitted,

IRELL & MANELLA LLP

Dated: October 23, 2006

By:

  
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